

Message Text

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SUBJECT: STATEMENT ON CLIMATE FOR FOREIGN INVESTMENT

REF: STATE 207558

1. THE FOREIGN INVESTMENT CLIMATE HAS IMPROVED CONSIDERABLY SINCE THE PRESENT GOVERNMENT OF ARGENTINA ASSUMED POWER IN MARCH 1976. IN ITS PROGRAM AND PUBLIC PRONOUNCEMENTS BY GOVERNMENT OFFICIALS, THE GOVERNMENT HAS MADE IT CLEAR THAT IT WANTS TO ATTRACT FOREIGN INVESTMENT TO ARGENTINA AS A COMPLEMENT TO NATIONAL INVESTMENT AND FOREIGN FINANCING TO REDUCE THE SOCIAL COST OF THE PROCESS OF CAPITAL FORMATION OF THE COUNTRY AND TO ACCELERATE ITS RATE OF GROWTH." IN THE SHORT TIME THE PRESENT GOVERNMENT HAS BEEN IN POWER, IT HAS ACTED QUICKLY TO ABROGATE AND REPLACE ADVERSE FOREIGN INVESTMENT LEGISLATION AND TO SETTLE INVESTMENT DISPUTES IT INHERITED FROM THE PREVIOUS PERONIST REGIME.

THE NEW FOREIGN INVESTMENT LAW (21382) PROMULGATED AUGUST 13 IS ONE OF THE MOST LIBERAL IN LATIN AMERICA. THE LAW DOES NOT EXCLUDE FOREIGN INVESTMENTS FROM ANY SECTOR BUT DOES REQUIRE PRIOR APPROVAL FROM THE EXECUTIVE POWER FOR THOSE IN THE FOLLOWING AREAS OR FORMS: A) NATIONAL DEFENSE AND SECURITY; PUBLIC SANITATION, POSTAL, ELECTRICITY, GAS, TRANSPORTATION AND TELECOMMUNICATION SERVICES;
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RADIO OR TELEVISION STATIONS, NEWSPAPERS, MAGAZINES

OR PUBLISHING ENTERPRISES; ENERGY; EDUCATION; AND BANKS, INSURANCE COMPANIES AND FINANCIAL INSTITUTIONS; B) WHEN THE PURCHASE OF LOCALLY-OWNED SHARES OF A LOCAL COMPANY OR THE ADDITION OF CAPITAL WOULD CONVERT A LOCAL FIRM INTO A LOCAL COMPANY OF FOREIGN CAPITAL; AND C) INVESTMENTS IN THE FORM OF SECONDHAND EQUIPMENT; REQUIRING SPECIAL TREATMENT; EXCEEDING \$5 MILLION; OR WHEN MADE BY A FOREIGN STATE OR PUBLIC UTILITY. NO PRIOR APPROVAL IS REQUIRED FOR FOREIGN INVESTMENT IN THE FORM OF REINVESTMENT OF PROFITS OR NEW INVESTMENT NOT EXCEEDING 10 PERCENT OF THE FOREIGN CAPITAL REGISTERED BY THE RECEIVING CONCERN, PROVIDED THAT IT DOES NOT CONVERT A LOCAL FIRM OF NATIONAL CAPITAL INTO ONE OF FOREIGN CAPITAL. ALL OTHER TYPES OF FOREIGN INVESTMENTS REQUIRE THE APPROVAL OF THE APPLICATION AUTHORITY, WHICH MUST REACH A DECISION WITHIN 120 DAYS.

3. THE FOREIGN INVESTMENT LAW ALSO PROVIDES FOR IMPROVED TREATMENT FOR THE REMITTANCE OF PROFITS AND REPATRIATION OF CAPITAL. FOREIGN INVESTORS MAY REPATRIATE CAPITAL AFTER THE THIRD YEAR, UNLESS THEY HAD PREVIOUSLY COMMITTED THEIR INVESTMENT FOR A LONGER PERIOD. A SPECIAL TAX (VARYING FROM 15-20PERCENT) IS LEVIED ON PROFITS REMITTED EXCEEDING 12 PERCENT OF THE FOREIGN INVESTMENT REGISTERED AT THE CENTRAL BANK.

4. IN CONTRAST WITH PRIOR LEGISLATION, THE FOREIGN INVESTMENT LAW STIPULATES THAT FOREIGN PARENT COMPANY CONTRACTS WITH LOCAL SUBSIDIARIES OR BANCHES WILL BE CONSIDERED FOR ALL PURPOSES CONTRACTS BETWEEN INDEPENDENT COMPANIES AS LONG AS THEY CONFORM TO NORMAL MARKET PRACTICES. THE PRINCIPLE ALSO APPLIES TO INTERCOMPANY LOANS AS LONG AS THE CENTRAL BANK DOES NOT OBJECT TO THE LOANS WITHIN 30 DAYS. INTERCOMPANY CONTRACTS INVOLVING TECHNOLOGY TRANSFER WILL BE DEALT WITH IN A SEPARATE TECHNOLOGY LAW. IN THE AREA OF INVESTMENT DISPUTES, SOME OF THE SPECIAL COMMISSIONS HAVE ALREADY FINISHED THEIR WORK AND HAVE RECOMMENDED SETTLEMENTS WHICH APPEAR SATISFACTORY

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TO MOST OF THE FOREING COMPANIES CONCERNED.

5. DESPITE THE GREAT IMPROVEMENT IN THE LEGAL AND GOVERNMENT FRAMEWORK FOR FOREIGN INVESTMENT, THE GOVERNMENT RECOGNIZES THAT FOREIGN INVESTMENT INFLOW "WILL DEPEND FUNDAMENTALLY ON POLITICAL STABILITY, PERSONAL AND JURIDICAL SECURITY, AND ECONOMIC STABILITY." WHILE THE GOVERNMENT HAS RECORDED

IMPORTANT VICTORIES AGAINST TERRORIST GROUPS,
VIOLENCE -- WHICH IS SOMETIMES DIRECTED AGAINST
BUSINESS EXECUTIVES -- STILL REMAINS A DETERRENT TO
INVESTMENT IN ARGENTINA. THE ECONOMIC POLICIES UNDER
THE ABLE LEADERSHIP OF MINISTER OF ECONOMY MARTINEZ
DE HOZ HAVE REGISTERED DRAMATIC RESULTS IN LOWERING
INFLATION, IMPROVING THE BALANCE OF PAYMENTS, AND
OBTAINING GREATLY NEEDED FOREIGN CREDITS -- BUT THE
ECONOMY STILL REMAINS IN A RECESSION, WITH REAL
WAGES APPROXIMATELY HALF OF WHAT THEY WERE AT THE
BEGINNING OF THE YEAR. THE FOREIGN INVESTMENT CLIMATE
WILL NOT BE ATTRACTIVE UNTIL THESE PROBLEMS ARE
RESOLVED.
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